

M #

USPTO

PTO/SB/66 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

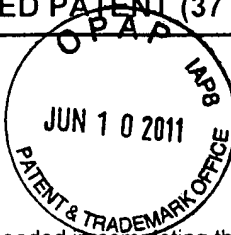
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))**

Docket Number (Optional)

525A

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Fax: (571) 273-8300



06/15/2011 DALLEN 00000003 5794847

01 FC:1462

400.00 OP

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 5,794,847

Application Number 738,415

Issue Date Aug 18, 1998

Filing Date Oct. 25, 1996

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

**Also complete the following information, if applicable**

The above – identified patent

☐

Is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_

original application number \_\_\_\_\_

original filing date \_\_\_\_\_

☐

resulted from the entry into the U.S. under 35 U.S.C. 371 of international application \_\_\_\_\_

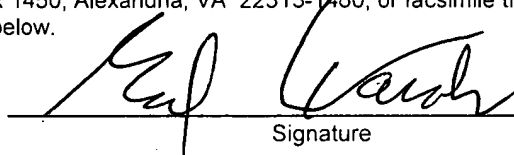
filed on \_\_\_\_\_

**CERTIFICATE OF MAILING (37 CFR 1.89(a))**

I hereby certify that this paper (\*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

June 8, 2011

Date

  
Signature

Mark C. Jacobs

Typed or Printed Name of Person Signing Certificate

[page 1 of 3]

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input checked="" type="checkbox"/> \$ 2055	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ Previously

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of \$ 65 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ Previously

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of \$ \_\_\_\_\_

☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. \_\_\_\_\_

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

7. OVERPAYMENT

As to any overpayment made please

OR

☐

Credit to Deposit Account No. \_\_\_\_\_

☐

Send refund check

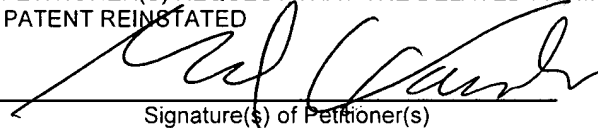
**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

  
\_\_\_\_\_  
Signature(s) of Petitioner(s)

June 8, 2011

\_\_\_\_\_  
Date

Mark C. Jacobs

\_\_\_\_\_  
Typed or printed name(s)

24043

\_\_\_\_\_  
Registration Number, if applicable

916-485-5000

\_\_\_\_\_  
Telephone Number

3033 El Camino Ave.

\_\_\_\_\_  
Address

Sacramento, Calif. 95821

\_\_\_\_\_  
Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES

☐

Maintenance Fee Payment

☐

Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☒

Petition Fee

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2  
3 APPLICANT: Russell Stocker

4 TITLE: Air Assisted Insect Dispensing Apparatus

5 SERIAL No: 5,794,847

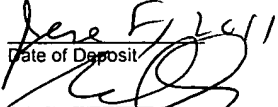
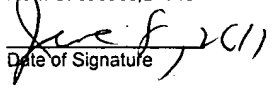
6 FILED: September 18, 1998

7 EXAMINER:

8 ART UNIT:

9 DOCKET No: 1525 A



CERTIFICATE OF MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed: Commissioner of Trademarks, P.O. Box 1451, Alexandria, VA 22313.	
	Date of Deposit
Mark C. Jacobs, 24043	
	Date of Signature

10  
11  
12  
13  
14 Commissioner for Patents

15 P.O. Box 1450

16 Alexandria, VA 22313-1450

17  
18 Sir:

19 RESPONSIVE TO THE OFFICE ACTION DATED June 2, 2011

20 Petition to Resubmit the Petition for the unintentionally delayed payment of a maintenance fee.

21  
22 Mary Martin, Administrative Assistant had been in correspondence with Dorethea Allen of the  
23 Office of Finance - Receipts Accounting Division, in regards to how to handle the original  
24 submission. Ms. Allen was very courteous and helpful by sending the documents needed for  
25 submission to the USPTO. Based in the conversation between the two women, coupled with the  
26 documents faxed to us by Ms. Allen it was unclear that a petition was needed. The maintenance  
27 form was signed by the undersigned attorney but the cover letter to Ms. Allen was signed by  
28 Mary Martin The USPTO dismissed the situation as a denial of the petition based on the  
29 signature of Ms. Martin on the cover letter.

30 Based on the denial of the "Petition" we have determined that a petition form is needed  
31 and as such is enclosed and signed by counsel along with the \$400.00 fee required.

32 This submission is timely within the time frame of the denial dated June 2, 2011. It is  
33 urged therefore that this petition fee and maintenance payment be accepted so that the issued  
34 patent can be revived.  
35

1  
2 Respectfully Submitted,

3  
4  
5 Mark. C. Jacobs

6 Registration No. 24043

7 916-485-5000

8 sactopat@aol.com  
9

10 Enc- Petition to Accept unintentionally delayed payment of Maintenance Fee

11 Courtesy copy of petition dated June 2, 2011

12 Check  
13  
14  
15  
16  
17  
18  
19



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov



MAILED

JUN 02 2011

OFFICE OF PETITIONS

MARK C JACOBS  
3033 EL CAMINO AVENUE  
SACRAMENTO CA 95821

In re Patent No. 5,794,847  
Issue Date: August 18, 1998  
Application No. 08/738,415  
Filed: October 25, 1996  
Attorney Docket: 1525A

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.378(c), filed April 13, 2011 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is not a final agency action within the meaning of 5 U.S.C. § 704.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; this includes the submission of a statement under 37 CFR 3.73(b). or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The merits of the petition have not been reviewed because Mary Dester Martin has signed the petition. A review of the record shows that Ms. Martin is not a proper party pursuant to 37 CFR 1.33.

It is further noted as indicated in the petition decision of March 24, 2011, any renewed petition must include the \$400.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:                      Mail Stop PETITION  
                                    Commissioner for Patents  
                                    Post Office Box 1450  
                                    Alexandria, VA 22313-1450

By hand:                      U. S. Patent and Trademark Office  
                                    Customer Service Window, Mail Stop Petitions  
                                    Randolph Building  
                                    401 Dulany Street  
                                    Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.



Charlema Grant  
Petitions Attorney  
Office of Petitions

---